



[4830-01-p]

## DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG-112815-12]

RIN 1545-BK99

Mixed Straddles; Straddle-by-Straddle Identification Under Section 1092(b)(2)(A)(i)(I)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearing.

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register** the Treasury Department and the IRS are issuing temporary regulations that explain how to account for unrealized gain or loss on a position held by a taxpayer prior to the time the taxpayer establishes a mixed straddle using straddle-by-straddle identification. The text of the temporary regulations also serves as the text of these proposed regulations. This document also provides notice of a public hearing on these proposed regulations.

DATES: Comments must be received by **[INSERT DATE 90 DAYS AFTER PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER]**. Request to speak and outlines of topics to be discussed at the public hearing scheduled for December 4, 2013, at 10 a.m. must be received by **[INSERT DATE 90 DAYS AFTER PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER]**.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG-112815-12), room 5205, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG-112815-12), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, or sent electronically via the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov) (IRS REG-112815-12).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Elizabeth M. Bouzis or Robert B. Williams at (202) 622-3950; concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing, Oluwafunmilayo Taylor, (202) 622-7180 (not toll-free numbers).

#### SUPPLEMENTARY INFORMATION:

##### **Background and Explanation of Provisions**

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the Income Tax Regulations (26 CFR part 1) relating to section 1092(b). First, the temporary regulations limit the application of §1.1092(b)-3T(b)(6) to section 1092(b)(2) identified mixed straddles established on or before **[INSERT DATE OF FILING OF THIS DOCUMENT FOR PUBLIC INSPECTION]**. Second, a new §1.1092(b)-6T provides that unrealized gain and loss on a position held prior to establishing a section 1092(b)(2) identified mixed straddle is taken into account at the time and has the character provided by provisions of the Internal Revenue Code (Code) that would apply if

the section 1092(b)(2) identified mixed straddle had not been established. Section 1.1092(b)-6T applies to section 1092(b)(2) identified mixed straddles established after **[INSERT DATE OF FILING OF THIS DOCUMENT FOR PUBLIC INSPECTION]**. The text of the temporary regulations also serves as the text of these proposed regulations.

### **Special Analyses**

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866, as supplemented by 13563. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small businesses.

### **Comments and Public Hearing**

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in the preamble under the “Addresses” heading. The Treasury Department and the IRS welcome comments on this proposed regulation. All comments will be available at [www.regulations.gov](http://www.regulations.gov) or upon request.

A public hearing has been scheduled for December 4, 2013, beginning at 10 a.m. in the Auditorium of the Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **“FOR FURTHER INFORMATION CONTACT”** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit written comments and an outline of the topics to be discussed and the time to be devoted to each topic by **[INSERT DATE 90 DAYS AFTER PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER]**. Submit a signed paper original and eight (8) copies or an electronic copy. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

#### **Drafting Information**

The principal author of these regulations is Elizabeth M. Bouzis, Office of Associate Chief Counsel (Financial Institutions and Products). However, other personnel from the Treasury Department and the IRS participated in their development.

## List of Subjects in 26 CFR Part 1

Income Taxes, Reporting and recordkeeping requirements.

## Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

### PART 1--INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding entries in numerical order to read as follows:

Authority: 26 U.S.C. 7805\* \* \*

Section 1.1092(b)-6 also issued under 26 U.S.C. 1092(b)(1).

Section 1.1092(b)-6 also issued under 26 U.S.C. 1092(b)(2).\* \* \*

Par. 2. Section 1.1092(b)-3 is added to read as follows:

§1.1092(b)-3 Mixed straddles; straddle-by-straddle identification under section 1092(b)(2)(A)(i)(I).

[The text of the proposed amendments to §1.1092(b)-3(b)(6) is the same as the text for the amendments to §1.1092(b)-3T(b)(6) published elsewhere in this issue of the **Federal Register**].

Par. 3. Section 1.1092(b)-6 is added to read as follows:

§1.1092(b)-6 Mixed straddles; accrued gain and loss associated with a position that becomes part of a section 1092(b)(2) identified mixed straddle that is established after [INSERT DATE OF FILING OF THIS DOCUMENT WITH THE FEDERAL REGISTER].

[The text of §1.1092(b)-6 is the same as the text for §1.1092(b)-6T published elsewhere in this issue of the **Federal Register**].

Beth Tucker

Deputy Commissioner for Operations Support.

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